

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**GARY LACY,**

**Petitioner,**

**v.**

**2:06 CV 9  
(Maxwell)**

**JOYCE FRANCIS, Warden,**

**Respondent.**

**ORDER**

It will be recalled that on January 27, 2006, *pro se* Petitioner Gary Lacy, an inmate at the Gilmer Federal Correctional Institution in Glenville, West Virginia, instituted the above-styled civil action by filing a Petition for Writ of Habeas Corpus.

It will further be recalled that the case was referred to United States Magistrate Judge James E. Seibert in accordance with Rule 83.09 of the Local Rules of Prisoner Litigation Procedure.

On September 6, 2006, United States Magistrate Judge James E. Seibert issued a Report And Recommendation wherein he recommended that the Petitioner's Petition for Writ of Habeas Corpus be denied and dismissed with prejudice and that the Petitioner's Motion For Judgment On The Pleadings be denied.

In his Report And Recommendation, Magistrate Judge Seibert provided both parties with ten (10) days from the date of said Report And Recommendation in which to file objections thereto and advised the parties that a failure to timely file objections would result in the waiver of their right to appeal from a judgment of this Court based upon said Report And Recommendation.

On September 19, 2006, the Petitioner's Objections To Report And

Recommendation were filed with the Court (See Docket No. 12).

Upon an independent *de novo* consideration of all matters now before the Court, it appears to the Court that the issues raised by the Petitioner in his Petition For Writ Of Habeas Corpus were thoroughly considered by Magistrate Judge Seibert in his Report And Recommendation. Furthermore, upon consideration of the Petitioner's Objections To Report And Recommendation, it appears to the Court that the Petitioner has not raised any issues that were not thoroughly considered by Magistrate Judge Seibert in said Report And Recommendation. Moreover, the Court, upon an independent *de novo* consideration of all matters now before it, is of the opinion that Magistrate Judge Seibert's Report and Recommendation accurately reflects the law applicable to the facts and circumstances before the Court in the above-styled action.

Accordingly, it is

**ORDERED** that the Report And Recommendation entered by United States Magistrate Judge James E. Seibert on September 6, 2006, be, and the same is hereby, **ACCEPTED** in whole and this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Petitioner's Petition for Writ of Habeas Corpus (Docket No. 1) be, and the same is hereby, **DENIED** and **DISMISSED, with prejudice, and STRICKEN** from the Court's docket. It is further

**ORDERED** that the Petitioner's Motion For Judgment On The Pleadings (Docket No. 10) be, and the same is hereby, **DENIED**.

In light of the denial of the Petitioner's Petition for Writ of Habeas Corpus, it is further **ORDERED** that the Petitioner's Motion To Expedite (Docket No. 13) be, and the

same is hereby, **DENIED** as moot.

For purposes of clarifying the docket in the above-styled civil action, it is further

**ORDERED** that the Clerk of Court shall docket the Petitioner's Motion For Leave To File Additional Exhibits (Docket No. 9) as **GRANTED**. In this regard, it will be recalled that Magistrate Judge Seibert's September 6, 2006, Report And Recommendation expressly granted the Petitioner's Motion For Leave To File Additional Exhibits.

It is further

**ORDERED** that the Clerk of Court shall enter judgment for the Respondent. It is further

**ORDERED** that should the Petitioner desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the Petitioner may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court Of Appeals For The Fourth Circuit.

The Clerk of Court is directed to transmit a copy of this Order to the *pro se* Petitioner and to counsel for the Respondent.

ENTER: March 29, 2007

A handwritten signature in black ink, appearing to read "Robert E. Hargrave", is written over a horizontal line.

United States District Judge